

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

JOSEPH NOTO, GARDEN STATE TIRE  
CORP., and STEPHENS JOHNSON,  
Individually and on behalf of all others  
similarly situated,

Plaintiff,

v.

22ND CENTURY GROUP, INC., HENRY  
SICIGNANO, III and JOHN T.  
BRODFUEHRER,

Defendants.

Civil Action No. 19-cv-01285-JLS-MJR

**NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION**

**TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

**PLEASE TAKE NOTICE** that, pursuant to the Court's Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 86), on October 3, 2023, at 11:00 AM in Allegheny Courtroom, 6th Floor East, 2 Niagara Square, Buffalo, New York 14202, before Hon. Michael J. Roemer, Court-appointed Lead Plaintiffs Joseph Noto, Garden State Tire Corp. and Stephens Johnson ("Plaintiffs") will and hereby do move the Court to: (1) grant final approval of the Settlement in the above-captioned action on the terms set forth in the Stipulation and Agreement of Settlement dated April 25, 2023 ("Stipulation"; ECF No. 81-1); and (2) approve the proposed Plan of Allocation for distribution of the Net Settlement Fund.<sup>1</sup>

This motion is based on this Notice of Motion; the memorandum of law in support thereof; the Declaration of Brian Calandra in Support of: (I) Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (II) Lead Counsel's Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Compensatory Awards to Plaintiffs; all exhibits thereto; all pleadings and papers filed herein; arguments of counsel; and any other matters properly before the Court. Defendants do not oppose this motion.

Dated: August 29, 2023

Respectfully submitted,

*/s/ Brian Calandra*  
\_\_\_\_\_  
Jeremy A. Lieberman  
Brian Calandra  
**POMERANTZ LLP**  
600 Third Avenue, Floor 20  
New York, NY 10016  
Phone: 212-661-1100  
Fax: 917-463-1044  
jalieberman@pomlaw.com  
bcalandra@pomlaw.com

---

<sup>1</sup> Unless otherwise defined, all capitalized terms used herein have the meanings ascribed to them in the Stipulation.

*Lead Counsel for Lead Plaintiffs Joseph Noto, Garden State Tire Corp. and Stephens Johnson*

**BRONSTEIN, GEWIRTZ & GROSSMAN,  
LLC**

Peretz Bronstein  
Eitan Kimelman  
60 East 42nd Street, Suite 4600  
New York, New York 10165  
Telephone: (212) 697-8209  
Facsimile: (212) 697-7296  
Email: peretz@bgandg.com  
Email: eitank@bgandg.com

**GLANCY PRONGAY & MURRAY LLP**

Garth Spencer  
1925 Century Park East, Suite 2100  
Los Angeles, California 90067  
929-777-1047 (cell)  
310-201-9150 (office)  
gspencer@glancylaw.com

**VITA LAW OFFICES, P.C.**

Richard Vita  
100 State Street, Suite 900  
Boston, Massachusetts 02109  
(617) 426-6566  
rjv@vitalaw.com

*Additional Counsel for Plaintiffs and for the  
Proposed Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of August 2023, a true and correct copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

*/s/ Brian Calandra* \_\_\_\_\_

Brian Calandra